

Advisory Council on Historic Preservation

§810.6

(3) The need for consultation with another agency having substantial interest in the subject matter of the request.

If no determination has been made by the end of the 10-day period or the end of the last extension, the requester may deem his request denied and may exercise a right of appeal in accordance with §810.4.

§810.4 Appeals.

(a) When a request has been denied, the requester may, within 30 days of receipt of the denial, appeal the denial to the Executive Director of the Council. Appeals to the Executive Director shall be in writing, shall be addressed to the Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Washington, DC 20005, and shall be clearly marked "FREEDOM OF INFORMATION APPEAL." Requests that are not so marked will be honored, but will be deemed not to have been received by the Council, for purposes of computing the response time, until the date on which they are identified by a member of the Council staff as being an appeal pursuant to the Freedom of Information Act.

(b) The appeal will be acted on within 20 working days of receipt. A written decision shall be issued. Where the decision upholds an initial denial of information, the decision shall include a reference to the specific exemption in the Freedom of Information Act which authorizes withholding the information, a brief explanation of how the exemption applies to the record withheld, and a brief statement of why a discretionary release is not appropriate. The decision shall also inform the requester of the right to seek judicial review in the U.S. District Court where the requester resides or has his principal place of business, or in which the agency records are situated, or in the District of Columbia.

(c) If no decision has been issued within 20 working days, the requester is deemed to have exhausted his administrative remedies.

§810.5 Fees.

(a) Fees shall be charged according to the schedules contained in paragraph (b) of this section unless it is deter-

mined that the requested information will be of primary benefit to the general public rather than to the requester. In that case, fees may be waived. Fees shall not be charged where they would amount to less than \$3.00.

(b) The following charges shall be assessed:

(1) Copies of documents—\$0.10 per page.

(2) Clerical searches—\$1.00 for each one quarter hour in excess of the first quarter hour spent by clerical personnel in searching for requested records.

(3) Professional searches—\$2.00 for each one quarter hour in excess of the first quarter hour spent by professional or managerial personnel in determining which records are covered by a request or other tasks that cannot be performed by clerical personnel.

(c) Where it is anticipated that fees may amount to more than \$25.00, the requester shall be advised of the anticipated amount of the fee and his consent obtained before the request is processed. The time limits for processing the request under §810.3 shall not begin to run until the requester's written agreement to pay the fees has been received. In the discretion of the Administrative Officer, advance payment of fees may be required before requested records are made available.

(d) Payment should be made by check or money order payable to the Advisory Council on Historic Preservation.

§810.6 Exemptions.

(a) The Freedom of Information Act exempts from disclosure nine categories of records which are described in 5 U.S.C. 552(b).

(b) When a request encompasses records which would be of concern to or which have been created primarily by another Federal agency, the record will be made available by the Council only if the document was created primarily to meet the requirements of the Council's regulations implementing section 106 of the National Historic Preservation Act or other provisions of law administered primarily by the Council. If